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March 31, 2017

VIA ECF AND FACSIMILE

Honorable Paul G. Gardephe  
United States District Judge  
United States District Court for the Southern District of New York  
40 Foley Square  
New York, NY 10007-1312

Re: United States v. Kaleil Isaza Tuzman, No. S8 15 Cr. 536 (PGG)

Dear Judge Gardephe:

We respectfully submit this letter on behalf of our client, Kaleil Isaza Tuzman, to update the Court on the status of privilege issues relating to the production of documents by Stephen Maiden (“Maiden”).

In connection with the SEC’s May 20, 2016 production to Mr. Isaza Tuzman, the SEC withheld over 100,000 documents received from cooperating witness Stephen Maiden that had been segregated as potentially privileged. These documents were segregated and withheld from production based on a representation that they hit on a search term provided by Maiden’s counsel for potential privilege, but without any further individualized review for privilege. In addition, neither the SEC nor the U.S. Attorney’s Office had reviewed the 100,000 withheld documents. The government informed defendants approximately seven (7) months later, in mid-January 2017, that a substantial number of the 100,000 withheld Maiden documents “did not actually hit on the search terms contained in the SEC-Maiden forensic agreement and should not have been segregated”; according to the government, the documents had been segregated due to a recently discovered “technical error.” Six weeks later, by letter dated March 6, 2017, the government produced the incorrectly withheld Maiden documents, as well as an additional set of documents over which Maiden no longer asserted a privilege. That production consists of over 8,500 additional documents.

Since receiving this additional production from the government earlier this month, Mr. Isaza Tuzman’s counsel has been actively engaged in motion practice in this case, including the filing of Mr. Isaza Tuzman’s Motion for Discovery and a Hearing on the Government’s Conduct and Mr. Isaza Tuzman’s Pretrial Motions filed today (Dkt. 262-264). As a result, counsel has been unable to review this supplemental production and conclude discussions regarding Maiden’s assertion of privilege.

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Accordingly, on behalf of Mr. Isaza Tuzman, we respectfully request to update the Court further regarding Maiden's privilege invocations in three weeks, by April 21, 2017.

We thank the Court in advance for its consideration.

Respectfully,

/s/ Avi Weitzman

cc: All counsel (*via ECF*)